

DO I NEED AN ATTORNEY?

Do I really need an attorney? The cost is high for me, and the paperwork looks like something I can do myself.

You *can* represent yourself in bankruptcy, but that doesn't mean you *should*. Being able to fill out the forms does not mean there are no other consequences when the case is filed. There may be assets and transactions that you do not realize might cause you problems, such as exceptions to discharge, unnecessary loss of assets, and possible loss of a discharge altogether. Many debtors have discovered to their dismay that the idea of "I just won't file bankruptcy on Uncle Ned" has cost them dearly. Some debtors think the way to keep an asset or to deal with a debt they want to pay is not to list it; this thinking could result in dismissal of the case or worse. An attorney can advise you of risks and opportunities available under the bankruptcy code. Just because something looks easy doesn't mean it is. What you don't know can hurt you.

What about bankruptcy petition preparers? They can do my paperwork and are much less expensive than attorneys.

By law, bankruptcy petition preparers are only a typing service. They are not allowed to give legal advice. No training is required, and they do not have to pass any test to become a bankruptcy petition preparer. Advice on important issues, like when it would be beneficial to file, which exemption law to choose to protect your assets, and what problems you may encounter during the case, are forbidden topics for bankruptcy petition preparers. And this might be just the advice you need. Only an attorney can give it, and attorneys are experienced in spotting problems you never even thought of.

But I don't have a job right now and only receive unemployment compensation (or SSI, SS Disability, pension payments, W-2, food share, etc.) and I have a lot of debt.

Many public and private benefits are not subject to garnishment, so your creditors cannot reach them. If you have only exempt assets not subject to liens (and only an attorney can make this determination), creditors cannot take anything from you to satisfy those debts. Since a chapter 7 discharge cannot be granted for another eight years - and bad things could happen in the future that could give rise to more debt - it might be better to wait until you have something that needs legal protection. Bankruptcy should be a last resort, and you don't want to waste one by filing without a real need for protection.

But the creditor calls are driving me crazy!

Let's distinguish between an annoyance and a need for legal relief. You can explain the situation (no job, no money), tell them not to call, change your phone number, or refer them to your attorney (another good reason to have one). But if they can't do anything to hurt you, bankruptcy might be way more than you need to solve the problem, and it

might hurt you in the long run. Only an attorney can explain your alternatives.

I'll never get out of this financial mess. Isn't bankruptcy about getting a fresh start?

Maybe, maybe not. Judgments and bankruptcy both have negative impacts on your credit rating, but only an attorney can assess whether you should take on a bankruptcy to get rid of the judgments and other debts. Some debts cannot be discharged at all. It is doubtful that a bankruptcy will improve your ability to get credit, and if it does, it will probably come with really high interest rates.

I've heard I can keep my house and car, which have liens on them, with chapter 13?

Perhaps, but chapter 13 is something that should not be attempted without an attorney. The case can last three to five years, there are many more technicalities than are in a chapter 7, and the requirements to confirm a plan are sometimes difficult to meet. Cases successfully completed by *pro se* debtors are as scarce as hen's teeth in this district, and it is not because either trustees or judges are hostile to *pre se* debtors. There are just lots of statutory mines you could step on. Besides, if you have steady income necessary to fund a chapter 13 plan, you can hire an attorney because most attorneys representing chapter 13 debtors accept a modest down payment and then receive payments through the chapter 13 plan.

Why can't the court help me through this?

Courts decide disputes and other issues related to cases; they do not give advice to people involved in litigation. That is what attorneys do. Attorneys advocate in court for their clients' best interests, but a court can't do that for you. There are other parties affected by a bankruptcy case - like your creditors - and the court can't take sides. Your bankruptcy trustee can't take your side either; his or her job is to collect money legally available to pay your creditors. We do provide help in filling out the forms through the pro se clerk in the bankruptcy clerk's office, and through the Pro Se Help Desk, staffed by volunteer attorneys on Thursday mornings in the court house. They are limited in how much they can help you; if you need advice, you need an attorney.